

Department of Permits and Development Management  
111 West Chesapeake Avenue  
Towson, Maryland 21204

In the Matter of

Civil Citation No. 31887

Thomas Harcum  
3715 Hillsdale Road  
Baltimore, MD 21207

10810 Powers Avenue

Respondent

FINDINGS OF FACT AND CONCLUSIONS OF LAW  
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on July 21, 2009, for a Hearing on a citation for violations of the Baltimore County Code (BCC) section 104-106 bill 49-07; Baltimore County Zoning Regulations (BCZR) section 101, 102, 1B01, failure to comply with correction notice requiring removal of trash, debris, construction material and equipment. Property not returned to original state or made safe to the public on residential property known as 10810 Powers Avenue, 21030.

On June 6, 2009, pursuant to § 3-6-205, Baltimore County Code, Inspector Richard Rohlfis issued a Code Enforcement citation. The citation was sent to the Respondent by 1<sup>st</sup> class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$10,000.00 (ten thousand dollars).

The Respondent failed to request a Code Enforcement Hearing and/or failed to appear after requesting a Hearing. Baltimore County Code, § 3-6-205(d) provides that in case of failure to request a Code Enforcement Hearing or if the violator (Respondent) fails to appear after requesting a Hearing then the citation and the civil penalty, shall be the Final Order of the Code Official not subject to appeal.

After proper consideration of all the evidence presented, the Hearing Officer finds:

A. Respondent started to construct a new single-family dwelling on this site but after putting in a foundation, has made no further progress. A Correction Notice was issued on December 28, 2007 and a Citation was issued on January 28, 2008. The Final Order enforcing that Citation, dated March 13, 2008, found that the original building permit had expired; a replacement permit was in effect; a safety barrier had been erected around the foundation and debris was being removed; and equipment on site was in use. The Hearing Officer found that the site was in a safe condition and that progress was being made toward compliance with code requirements, and continued the case with followup inspections.

B. This Citation was issued on May 6, 2009. The Hearing date was scheduled for June 23 and was rescheduled for July 21, with notice provided to Respondent in writing and by telephone.

C. Respondent Harcum failed to attend this Hearing. Building Inspector Richard Rohlfs testified that all building permits have expired. He further testified that the foundation is fenced for safety purposes but is an eyesore for the community. He further testified that Respondent Harcum has failed to return telephone calls.

D. At the request of the Hearing Officer, Inspector Rohlfs reinspected the property on July 22 and took updated photographs. The photographs show the property in the same condition as shown by photographs in the file from 2008, except that there is now tall grass and weeds on parts of the property including the area inside the fence. Photographs show an old rusty trailer and equipment box; ladders; a small forklift or front end loader; a large pile of cinderblocks and broken concrete; multiple large steel girders lying in tall grass; and a large area covered with white gravel. Visible inside the chain link safety fence is the unfinished cinderblock foundation, with tall grass and weeds both inside and outside the fence.

E. Respondent has failed to make progress on this construction project and currently lacks a building permit. Respondent has also failed to remove equipment and materials from the site. While the open foundation is fenced for safety, the fence is not secure and in one photograph there is a gap large enough to permit entry. The foundation is open to the weather, filled with tall grass and weeds, and likely filled periodically with stagnant water. Pursuant to the Baltimore County Building Code, Section 105.6.1, the Building Engineer has brought enforcement action for removal of danger due to lack of active work. The evidence clearly shows that public health and safety is endangered by the lack of active construction on this site. Unless Respondent obtains a new building permit and resumes work, Respondent must remove all equipment, materials, and debris, and must fill the foundation with topsoil and return the lot to its original condition.

IT IS ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$5,000.00 (five thousand dollars).

IT IS FURTHER ORDERED that the civil penalty will be REDUCED to \$500.00 (five hundred dollars) if Respondent corrects the violations by August 21, 2009, either by obtaining a valid building permit and resuming construction work in an appropriate manner or by removing all equipment, materials, and debris, filling in the foundation and restoring the lot to its original condition. If the Respondent fails to correct the violations by August 21, 2009, then the full civil penalty shall be imposed.

IT IS FURTHER ORDERED that after August 21, 2009, Baltimore County may enter the property for the purpose of filling in the open foundation and restoring the lot to its original condition; removing equipment; removing construction materials; and/or removing all junk, trash and debris, at Respondent's expense.

IT IS FURTHER ORDERED that if not paid within thirty days of billing, the civil penalty AND any expenses incurred by Baltimore County, as authorized above, shall be imposed and placed as a lien upon the property.

IT IS FURTHER ORDERED that the County inspect the property to determine whether the violations have been corrected.

ORDERED this 29<sup>th</sup> day of July 2009.

Signed: ORIGINAL SIGNED  
Margaret Z. Ferguson  
Baltimore County Hearing Officer